

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-0915-MWD-E **TCEQ ID:** RN101512044 **CASE NO.:** 33748
RESPONDENT NAME: Warren Independent School District

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Warren ISD, located south of Farm-to-Market Road 1943 and east of Blue Berry Hill Drive, Tyler County

TYPE OF OPERATION: Wastewater treatment

SMALL BUSINESS: ☐ Yes ☒ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on November 12, 2007. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 751-0335; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: Mr. Mike Pate, Superintendent, Warren Independent School District, P.O. Box 69, Warren, Texas 77664
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 19, 2007</p> <p>Date of NOV/NOE Relating to this Case: May 14, 2007 (NOE)</p> <p>Background Facts: This was a routine record review. One violation was documented.</p> <p>WATER</p> <p>Failed to comply with permit effluent limits for Dissolved Oxygen, Chlorine Residual, Biochemical Oxygen Demand, and Total Suspended Solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11307001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6].</p>	<p>Total Assessed: \$3,300</p> <p>Total Deferred: \$660 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,640</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 11307001. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): TPDES No. 11307-001



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 25, 2007

TCEQ

DATES

Assigned 4-Jun-2007

PCW 11-Jun-2007

Screening 9-Jun-2007

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Warren Independent School District

Reg. Ent. Ref. No. RN101512044

Facility/Site Region 10-Beaumont

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 33748

Docket No. 2007-0915-MWD-E

Media Program(s) Water Quality

Multi-Media

No. of Violations 1

Order Type 1660

Enf. Coordinator Heather Brister

EC's Team Enforcement Team 1

Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$2,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

65% Enhancement

Subtotals 2, 3, & 7 \$1,300

Notes

The Respondent self-reported eight months of effluent quality violations, received one Notice of Violation ("NOV") for violations considered to be same or similar, and was issued an agreed order with a denial of liability.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5 \$0

Before NOV

NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

0% Enhancement*

Subtotal 6 \$0

*Capped at the Total EB \$ Amount

Total EB Amounts	\$140
Approx. Cost of Compliance	\$2,000

SUM OF SUBTOTALS 1-7

Final Subtotal \$3,300

OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount \$3,300

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$3,300

DEFERRAL

20%

Reduction

Adjustment -\$660

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$2,640

Screening Date 9-Jun-2007

Docket No. 2007-0915-MWD-E

PCW

Respondent Warren Independent School District

Policy Revision 2 (September 2002)

Case ID No. 33748

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN101512044

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	9	45%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 65%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent self-reported eight months of effluent quality violations, received one Notice of Violation ("NOV") for violations considered to be same or similar, and was issued an agreed order with a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 65%

Screening Date 9-Jun-2007		Docket No. 2007-0915-MWD-E		PCW													
Respondent Warren Independent School District		<small>Policy Revision 2 (September 2002)</small>															
Case ID No. 33748		<small>PCW Revision May 25, 2007</small>															
Reg. Ent. Reference No. RN101512044																	
Media [Statute] Water Quality																	
Enf. Coordinator Heather Brister																	
Violation Number 1																	
Rule Cite(s)		Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. 11307001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6.															
Violation Description		Failed to comply with permit effluent limits as documented by a TCEQ record review of self-reported data conducted on April 19, 2007, and as shown in the attached table.															
Base Penalty					\$10,000												
>> Environmental, Property and Human Health Matrix																	
OR	Harm																
	Major	Moderate	Minor														
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Release</td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td></td> <td></td> <td style="text-align: center;">x</td> </tr> <tr> <td style="text-align: center;">Potential</td> <td></td> <td></td> <td></td> </tr> </table>			Release				Actual			x	Potential				Percent 10%	
Release																	
Actual			x														
Potential																	
>> Programmatic Matrix																	
6-Oct-06		Major	Moderate	Minor													
					Percent 0%												
Matrix Notes		A simplified model was used to evaluate five-day biochemical oxygen demand (BOD5) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids, minimum chlorine residual and dissolved oxygen were also considered. As a result of these discharges, human health or the environment have been exposed to insignificant amounts of pollutants which do not exceed levels harmful to human health or environmental receptors.															
Adjustment					\$9,000												
					\$1,000												
Violation Events																	
Number of Violation Events		2		Number of violation days 123													
<small>mark only one with an x</small>		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td></td></tr> <tr><td style="text-align: center;">monthly</td><td></td></tr> <tr><td style="text-align: center;">quarterly</td><td style="text-align: center;">x</td></tr> <tr><td style="text-align: center;">semiannual</td><td></td></tr> <tr><td style="text-align: center;">annual</td><td></td></tr> <tr><td style="text-align: center;">single event</td><td></td></tr> </table>		daily		monthly		quarterly	x	semiannual		annual		single event		Violation Base Penalty \$2,000	
daily																	
monthly																	
quarterly	x																
semiannual																	
annual																	
single event																	
Two quarterly events are recommended.																	
Economic Benefit (EB) for this violation			Statutory Limit Test														
Estimated EB Amount \$140			Violation Final Penalty Total \$3,300														
This violation Final Assessed Penalty (adjusted for limits)					\$3,300												

Economic Benefit Worksheet**Respondent** Warren Independent School District**Case ID No.** 33748**Reg. Ent. Reference No.** RN101512044**Media** Water Quality**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	6-Oct-2006	29-Feb-2008	1.4	\$140	n/a	\$140

Notes for DELAYED costs

Estimated cost for implementing necessary rehabilitation work to the facility. Date Required is the initial month of noncompliance. Final Date is the anticipated date of compliance.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs**Approx. Cost of Compliance**

\$2,000

TOTAL

\$140

Effluent Limit Violation Table

Respondent	Warren Independent School District
ID Number(s)	TPDES No. 11307-001
Docket Number	2007-0915-MWD-E
Enf. Coordinator	Heather Brister

Corresponds to Violation Number: 1

EFFLUENT PARAMETER						
	Permit Limit					
	Dissolved Oxygen Minimum 2.0 Milligrams per Liter	Chlorine Residual Minimum 1.0 Milligrams per Liter	Biochemical Oxygen Demand Daily Average Concentration 20 Milligrams per Liter	Biochemical Oxygen Demand Single Grab 65 Milligrams per Liter	Total Suspended Solids Daily Average Concentration 20 Milligrams per Liter	Total Suspended Solids Single Grab 65 Milligrams per Liter
<i>Month/Year</i>						
Oct-06	1.4	0.67	c	c	N/A	N/A
Nov-06	1.7	c	c	c	52.2	N/A
Dec-06	c	c	c	c	59.5	74
Jan-07	c	c	22	67.2	111.5	364
		c = Compliant				

Compliance History

Customer/Respondent/Owner-Operator:	CN600788764	Warren Independent School	Classification: AVERAGE	Rating: 2.47
Regulated Entity:	RN101512044	WARREN ISD	Classification: AVERAGE	Site Rating: 6.51
			Rating Date: September 01 06 Repeat Violator: NO	

ID Number(s):	WASTEWATER	PERMIT	WQ001130700
	WASTEWATER	PERMIT	TPDES007601
	WASTEWATER	PERMIT	TX0076015
	WASTEWATER	LICENSE	WQ0011307001
Location:	Located south of Farm-to-Market Road 1943 and east of Blue Berry Hill Drive in Tyler County, Texas		

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: June 08, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 08, 2002 to June 08, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Heather Brister Phone: 512-239-1203

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- | | |
|----------------------------|----------------------------|
| Effective Date: 03/07/2003 | ADMINORDER 2001-1451-MWD-E |
|----------------------------|----------------------------|
- Classification: Major
- Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(2)
- Rqmt Prov: 4c PERMIT
- Description: Failure to apply for permit renewal at least 180 days prior to expiration of the existing permit and continued to operate after expiration.
- Classification: Moderate
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.9(a)
- Rqmt Prov: 3a PERMIT
- Description: Failure to collect instantaneous flow measurements concurrently with grab samples.
- Classification: Moderate
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(11)(A)
- Rqmt Prov: 3a PERMIT
- Description: Failure to collect monitoring samples and measurements concurrently with grab samples.
- Classification: Moderate
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
- Rqmt Prov: 7(c) PERMIT
- Description: Failure to report effluent violations which deviate from the permitted effluent limitations by more than 40%
- Classification: Moderate
- Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
- Rqmt Prov: No. 1 PERMIT
- Description: Failure to prevent effluent exceedances.
- Classification: Moderate
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(7)
- Rqmt Prov: No. 4a PERMIT
- Description: Failure to give notice to the Executive Director as soon as possible of any planned physical alterations or addition to the permitted facility.
- Classification: Moderate
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
- Rqmt Prov: Sect. II F PERMIT

Description: Failure to submit annual sludge reports due September 1 for the years 1997, 1998, 1999 and 2000.

B. Any criminal convictions of the state of Texas and the federal government. N/A

C. Chronic excessive emissions events. N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	06/18/2002	(202331)
2	07/26/2002	(202334)
3	08/14/2002	(202337)
4	09/16/2002	(202340)
5	10/14/2002	(202343)
6	01/16/2003	(202350)
7	02/11/2003	(202318)
8	03/18/2003	(202321)
9	03/31/2003	(281095)
10	04/11/2003	(314068)
11	05/19/2003	(314070)
12	06/20/2003	(314071)
13	07/22/2003	(314072)
14	08/14/2003	(314074)
15	09/18/2003	(314075)
16	10/28/2003	(314076)
17	11/24/2003	(314077)
18	12/18/2003	(314078)
19	01/28/2004	(314079)
20	03/01/2004	(314066)
21	03/22/2004	(314067)
22	05/07/2004	(314069)
23	05/17/2004	(359825)
24	06/22/2004	(314073)
25	09/23/2004	(359827)
26	10/21/2004	(359826)
27	10/29/2004	(359828)
28	11/23/2004	(386184)
29	12/22/2004	(386185)
30	02/28/2005	(424096)
31	03/16/2005	(372709)
32	03/25/2005	(386183)
33	04/22/2005	(424097)
34	05/23/2005	(424098)
35	06/20/2005	(424099)
36	07/21/2005	(424100)
37	08/29/2005	(444891)
38	09/08/2005	(430997)
39	09/23/2005	(444892)
40	10/18/2005	(475776)
41	11/10/2005	(436512)
42	11/22/2005	(475777)
43	01/06/2006	(475778)
44	01/13/2006	(475779)
45	03/01/2006	(475774)
46	03/21/2006	(475775)
47	04/21/2006	(503081)
48	05/22/2006	(503082)
49	06/20/2006	(503083)
50	07/21/2006	(525428)
51	09/11/2006	(525429)
52	11/01/2006	(550130)
53	11/27/2006	(550131)
54	12/27/2006	(550132)
55	01/31/2007	(550129)
56	05/14/2007	(557549)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	03/31/2003	(314068)		
Self Report?	YES		Cla	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	01/31/2005	(424096)		
Self Report?	YES		Cla	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	03/16/2005	(372709)		
Self Report?	NO		Cla	Moderate
Rqmt Prov:	PERMIT EL&MR 2,6			
Description:	Failure to discharge effluent that is compliant with permitted limitations			
Self Report?	NO		Cla	Minor
Rqmt Prov:	PERMIT OpR 1			
Description:	Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.			
Self Report?	NO		Cla	Moderate
Rqmt Prov:	PERMIT EL&MR 2, 6			
Description:	Failure to discharge effluent that is compliant with permitted limitations.			
Self Report?	NO		Cla	Moderate
Rqmt Prov:	PERMIT M&RR 3.C			
Description:	Failure to maintain calibration logs for the Hach SensION ph/dissolved oxygen meter.			
Date:	09/30/2005	(475776)		
Self Report?	YES		Cla	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	10/31/2005	(475777)		
Self Report?	YES		Cla	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	10/31/2006	(550131)		
Self Report?	YES		Cla	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	11/30/2006	(550132)		
Self Report?	YES		Cla	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	01/31/2007	(550129)		
Self Report?	YES		Cla	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	12/31/2006			
Self Report?	YES		Cla	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.	N/A
G. Type of environmental management systems (EMSs).	N/A
H. Voluntary on-site compliance assessment dates.	N/A
I. Participation in a voluntary pollution reduction program.	N/A
J. Early compliance.	N/A
Sites Outside of Texas	N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
WARREN INDEPENDENT SCHOOL
DISTRICT
RN101512044

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-0915-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Warren Independent School District ("Warren ISD") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Warren ISD appear before the Commission and together stipulate that:

1. Warren ISD owns and operates a wastewater treatment facility located south of Farm-to-Market Road 1943 and east of Blue Berry Hill Drive in Tyler County, Texas (the "Facility").
2. Warren ISD has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Warren ISD agree that the Commission has jurisdiction to enter this Agreed Order, and that Warren ISD is subject to the Commission's jurisdiction.
4. Warren ISD received notice of the violations alleged in Section II ("Allegations") on or about May 19, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Warren ISD of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Three Hundred Dollars (\$3,300) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Warren ISD has paid Two Thousand Six Hundred Forty Dollars (\$2,640) of the administrative

penalty and Six Hundred Sixty Dollars (\$660) is deferred contingent upon Warren ISD's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Warren ISD fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Warren ISD to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Warren ISD have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Warren ISD has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Warren ISD is alleged to have failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11307001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6, as documented during a record review conducted on April 19, 2007, and as shown in the following table:

EFFLUENT PARAMETER						
Permit Limit						
	Dissolved Oxygen Minimum 2.0 Milligrams per Liter	Chlorine Residual Minimum 1.0 Milligrams per Liter	Biochemical Oxygen Demand Daily Average Concentration 20 Milligrams per Liter	Biochemical Oxygen Demand Single Grab 65 Milligrams per Liter	Total Suspended Solids Daily Average Concentration 20 Milligrams per Liter	Total Suspended Solids Single Grab 65 Milligrams per Liter
Month/Year						
Oct-06	1.4	0.67	c	c	N/A	N/A
Nov-06	1.7	c	c	c	52.2	N/A
Dec-06	c	c	c	c	59.5	74
Jan-07	c	c	22	67.2	111.5	364

c - compliant

III. DENIALS

Warren ISD generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Warren ISD pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Warren ISD's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Warren Independent School District, Docket No. 2007-0915-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that Warren ISD shall, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 11307001. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon Warren ISD. Warren ISD is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Warren ISD fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Warren ISD's failure to comply is not a violation of this Agreed Order. Warren ISD shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Warren ISD shall notify the Executive Director within seven days after Warren ISD becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Warren ISD shall be made in writing to the Executive Director. Extensions are not effective until Warren ISD receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Warren ISD in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Warren ISD, or three days after the date on which the Commission mails notice of the Order to Warren ISD, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Srdian

For the Executive Director

12/03/07

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Mike Pate

Signature

8/29/07

Date

Mike Pate

Name (Printed or typed)
Authorized Representative of
Warren Independent School District

Superintendent

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

